

ASSEMBLY BILL

No. 1633

Introduced by Assembly Member Evans

February 22, 2005

An act to add Chapter 6.2 (commencing with Section 13750) to Part 3 of Division 9 of the Welfare and Institutions Code, relating to foster children.

LEGISLATIVE COUNSEL'S DIGEST

AB 1633, as introduced, Evans. Foster children: social security assistance.

Existing law provides for the placement of certain children in foster care under the custody of the State Department of Social Services. Existing law, the federal Social Security Act, provides for benefits for eligible beneficiaries, including survivorship benefits and supplemental security income benefits for, among others, blind and disabled children. The act authorizes a person or entity to be appointed as a representative payee for a beneficiary who cannot manage or direct the management of his or her money.

This bill would require the department to establish and maintain a social security assistance program for eligible children who are in the department's custody. The bill would require the department to assist in the application process for an eligible foster child, and to apply to be appointed the child's representative payee. It would further require the department to establish a maintenance account and a dedicated account for each child, to contain proceeds from Social Security Act benefits each of which would only be used for the purposes set forth in the bill. The bill would require the department to reserve a child's social security benefits for 90 days prior to his or her 18th birthday, and to transfer those benefits to the child to assist in the transfer to

independent living. The bill would require the department to make findings and recommendations regarding establishing eligibility for social security benefits for children under the state's care.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Children and youth in foster care are more likely to have
4 more significant emotional and behavioral health problems,
5 developmental disabilities or delays, or chronic health conditions
6 than other children.

7 (b) Assisting eligible children in securing social security
8 benefits is a cost-effective method to improve the lives of many
9 children and youth in state custody and to improve their chances
10 of returning to a safe and stable home.

11 (c) Disabled children may face special barriers when
12 transitioning from state care and custody.

13 (d) Federal financial benefits can be an important source of
14 support for these children. They also can serve as a buffer as
15 children transition from state care and custody.

16 (e) Many children in foster care go without social security
17 benefits for which they are eligible because no one is available to
18 assist them with the application process. Only a small percentage
19 of the children in California that receive SSI/SSP benefits also
20 receive child welfare services, and many more children in the
21 state's care are likely eligible for social security benefits.

22 (f) For those children that leave state custody at 18 years of
23 age, social security benefits serve as an important resource in
24 making the transition out of the state's custody.

25 SEC. 2. Chapter 6.2 (commencing with Section 13750) is
26 added to Part 3 of Division 9 of the Welfare and Institutions
27 Code, to read:

1 CHAPTER 6.2. FOSTER CARE SOCIAL SECURITY ASSISTANCE
2 PROGRAM
3

4 13750. This chapter shall be known, and may be cited as, the
5 Foster Care Social Security Assistance Program.

6 13752. The State Department of Social Services shall
7 establish and maintain a social security assistance program to
8 ensure that all children residing in the department's custody who
9 are eligible for social security benefits apply for and receive all
10 benefits available to them. The department shall do all of the
11 following:

12 (a) Screen all children in the custody of the department for
13 eligibility for social security supplemental security income and
14 social security survivor's benefits. Each child shall be screened
15 within six months of entering the department's custody.

16 (b) Assist in the application process for supplemental security
17 income and survivor's benefits for each child who is determined
18 pursuant to the screening process to be likely to be eligible for
19 benefits.

20 (c) Request reconsideration and appeal adverse decisions
21 where appropriate.

22 13754. The department shall apply to be appointed
23 representative payee on behalf of a child beneficiary in its
24 custody when no other appropriate party is available to serve. In
25 its capacity as representative payee, the department shall do all of
26 the following:

27 (a) Establish a no-cost, interest-bearing maintenance account
28 for each child in the department's custody for whom the
29 department serves as representative payee. Interest earned shall
30 be credited to the account. The department shall keep an itemized
31 current account of all income and expense items for each child's
32 maintenance account.

33 (b) Establish procedures for disbursing money from the
34 accounts, including disbursing the net balance to the beneficiary
35 upon release from care. The department shall use social security
36 benefits only for the following purposes:

37 (1) For the use and benefit of the child.

38 (2) For purposes determined by the department to be in the
39 child's best interest.

1 (3) In accordance with an assessment of the child's individual
2 needs, provided that each child beneficiary shall receive a
3 personal allowance of at least thirty dollars (\$30) each month for
4 the child's personal use.

5 (c) Establish and maintain a dedicated account in a financial
6 institution for certain past-due benefit payments, in accordance
7 with federal law. Only past-due benefits and certain subsequent
8 SSI payments that reconcile past underpayments shall be
9 deposited into the account. Funds from the dedicated account
10 shall not be used for basic maintenance costs. The use of funds
11 from the dedicated account must be for the benefit of the child
12 and are limited to expenditures for the following:

- 13 (1) Medical treatment.
- 14 (2) Education or job skills training.
- 15 (3) Personal needs assistance.
- 16 (4) Special equipment.
- 17 (5) Housing modification.
- 18 (6) Therapy or rehabilitation.
- 19 (7) Other items or services, provided the Social Security
20 Administration determines the other services are appropriate.

21 (d) Beginning at least 90 days prior to a custodial child's 18th
22 birthday, the department shall conserve the child's social security
23 benefits in lieu of reimbursing the department for care and
24 maintenance. Conserved benefits shall be transferred to the child
25 to assist in his or her transition to self-sufficient living.

26 13756. The department shall annually evaluate and make
27 public its findings and recommendations regarding establishing
28 eligibility for social security benefits for children in the
29 department's care. Evaluations pursuant to this section shall
30 include all of the following:

31 (a) The number of children in the department's custody with
32 developmental disabilities or delays, behavioral, or emotional
33 health problems or chronic health conditions.

34 (b) The number of children for whom the department serves as
35 representative payee, and the number of children in the
36 department's custody that have a representative payee other than
37 the department.

38 (c) The purposes for which social security benefits were
39 disbursed from each account for which the department has been
40 appointed the representative payee.

- 1 (d) The number and percentage of children determined to be
- 2 eligible for SSI who are emancipated from foster care.
- 3 (e) The total amount of money collected by the department in
- 4 social security benefits for children in the state's custody.
- 5 13758. For purposes of this chapter, social security benefits
- 6 also include SSI/SSP benefits.

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